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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,942	03/25/2004	Gerald L. Thompson	7330	6876

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EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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01/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/808,942	THOMPSON ET AL.	
	Examiner	Art Unit	
	Christopher P. Bruenjes	1794	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10,13,14,23-25,27,28,30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10,13,14,23-25,27,28,30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 rejection of claim 29 of record in the Office Action mailed June 26, 2007, Page 3 Paragraph 4, has been withdrawn due to Applicant's amendment in the Paper filed October 29, 2007.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 10, 13-14, 24-25, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter (USPN 3,140,220) in view of Weinstein et al (US 2001/0030018 A1) and Gembala (US 2004/0166087 A1).

Regarding claims 10, 13-14, and 24, Walter teaches a faced insulation assembly comprising a glass fiber insulation blanket (col.2, 1.60-72) having a first major surface and a second major surface that are each defined by the length and width of the glass fiber insulation blanket (Figure 1). The glass fiber insulation blanket has lateral edges extending along the length of the glass fiber insulation blanket (Figure 1). The assembly further comprises a facing formed from a paper sheet material (reference number 14, Figure 1 and col.5, 1.25-27). The facing has an outer major surface and inner major surface with lateral edge portions adjacent to the lateral edges of the glass fiber insulation blanket (Figure 1). The assembly further comprises an asphalt coating layer on the inner major surface of the facing that bonds the facing to the first major surface of the glass fiber insulation blanket (col.5, 1.25-35). The asphalt coating layer does not extend to the lateral edges of the glass fiber insulation blanket such that the lateral edge portions of the facing are not bonded to the first major surface of the glass fiber insulation blanket by the asphalt coating layer (Figure 1 and col.5, 1.25-35).

Walter fails to explicitly teach that the paper sheet material of the facing is formed from Kraft paper and fails to teach that an odor-reducing additive is added to the asphalt coating layer.

Weinstein et al teach facing sheets or liners on building insulation assemblies formed from paper are formed from Kraft paper or foil-scrim-Kraft paper laminates, because of Kraft papers particular usefulness in building insulation facings (p.5, paragraph 43). Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to form the paper liner or facing of the building insulation assembly of Walter from Kraft paper or a foil-scrim-Kraft paper laminate, because those materials are known in the art to

be particular useful and typically used as liners and facings in building insulation assemblies, as taught by Weinstein et al.

Gembala teaches that the need for odor reduction and masking in the asphalt compositions is well known in the construction industry (p.1, paragraph 4). Gembala further teaches that odor-reducing additives consisting essentially of at least one essential plant oil are added to asphalt in order to reduce and mask the odor of the asphalt composition (p.1, paragraph 7). Gembala also teaches that the fragrance is added in moderate amounts so as not to interfere with the performance or workability of the asphalt (p.1, Paragraph 7). Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to add an essential plant oil odor-reducing additive to a asphalt used in the art of roofing materials in order to reduce and mask the odor of the asphalt composition, as taught by Gembala, and that the amount of the additive would be optimized based on the amount needed to reduce and mask the odor without interfering with the performance of the asphalt, as taught by Gembala.

Thus, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to add an essential plant oil odor-reducing additive in the amount claimed to the asphalt coating layer of Walter in order to reduce and mask the odor of the asphalt composition as desired in the construction industry, as taught by Gembala. Furthermore, the amount of the additive would be selected by one having ordinary skill in the art after routine experimentation to determine the optimal amount desired to mask the odor without interfering with the performance or workability of the asphalt in an amount approximating 1 part by weight of the odor-reducing additive to 10,000 parts asphalt blend, as taught by Gembala.

Regarding claims 25 and 31, Walter fails to teach the particular width of the lateral edge portions of the facing. However, the intention of the lateral edge portions of the facing is to staple or bond the lateral edge portions to framing members in the attic floor or walls of a building. Therefore, the lateral edge portions would have a width corresponding to the width of standard framing members. Weinstein et al specifically teach that useful corresponding widths for the tab members are about $\frac{1}{2}$ to about 1 and $\frac{1}{2}$ inches (p.6, paragraph 49). Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to select the wide of the lateral edge portions of the facing of Walter within the range of $\frac{1}{2}$ and 1 and $\frac{1}{2}$ inches because that range represents a typical corresponding width for use in stapling or bonding the lateral edge portion of the facing to the framing members when installing in building walls and attic floors as taught by Weinstein et al.

Regarding claim 30, Walter teaches that the glass fiber insulation assembly contains a plurality of slit lines wherein the portions of the facing adjacent to the plurality of slit lines are not bonded to the first major surface of the glass fiber insulation blanket by the asphalt coating layer (col.5, l.14-24), but fails to teach that the separable insulation sections are separable by a plurality of lines of weakness aligned on the plurality of slit lines. Weinstein et al teach that slit lines are replaced with lines of weakness so that the insulation blankets can be separated and sized at the job site without the need to cut the fibrous insulation blankets with knives or similar cutting tools which are both time consuming and can result in cuts or other injuries to the workers (p.1, paragraph 7). Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to form lines of weakness in place of the plurality of slit lines of Walter in order to eliminate the need for cutting tools to separate the

blankets that can lead to loss of time and possible injuries to workers, as taught by Weinstein et al.

5. Claims 23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter, Weinstein et al, and Gembala as applied to claim 24 above, and further in view of Szwarc (USPN 2,496,566).

Regarding claims 23 and 27, Walter, Weinstein et al, and Gembala taken as a whole teach all that is shown above, but fail to teach that the Kraft paper sheet material with the asphalt coating layer is fungi growth resistant. However, Szwarc teaches asphalt used to form water-vapor resistant Kraft paper, such as the Kraft paper sheet of Weinstein et al, contains a fungicide in an amount sufficient to render the sheet material fungi growth resistant (col.1, 1.18-20 and col.2, 1.6-11). Therefore, it would have been obvious to one having ordinary skill in the art that fungicides are added to asphalt coating used to form water-vapor resistant coated Kraft paper in order to render the paper sheet material fungi growth resistant, as taught by Szwarc.

Thus, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to add a fungicide to the asphalt coating of Walter, Weinstein et al and Gembala in order to render the Kraft paper sheet material fungi growth resistant, as taught by Szwarc, since one of ordinary skill in the art recognizes that fungi growth resistance is useful for water vapor resistant coated papers, as suggested by Szwarc.

Regarding claim 23, Szwarc teaches that the asphalt coated on the Kraft paper is rendered fungi growth-resistant by adding a growth-inhibiting agent as shown above. Therefore, the Kraft

paper sheet material containing the growth-inhibiting agent incorporated in the asphalt coating would be fungi growth-resistant Kraft paper sheet material.

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walter, Weinstein et al, and Gembala as applied to claim 24 above, and further in view of Taylor et al (USPN 6,331,350).

Walter, Weinstein et al and Gembala combined teach all that is shown above and that the glass fibers are bonded together at their points of intersection (col.2, l.68-72 of Walter), but fail to teach using an odorless binder such as acrylic when forming the fibrous insulation blanket. However, Taylor et al teach that it is known in the art of glass fiber insulation blankets for use in building insulation to use a phenolic powder resin containing formaldehyde as a binder to bond together the glass fibers (col.1, l.15-30). Taylor et al goes on to teach that manufacturers of insulation products have started to offer formaldehyde-free products to provide the consumers an alternative to the traditional insulation products, especially in light of increasingly stringent Federal regulations with regard to minimization of volatile organic compounds (col.2, l.17-33). Taylor et al teach that the currently used formaldehyde free binder used in glass fiber insulation is an acrylic thermosetting binder (col.2, l.34-40). Note that acrylic thermosetting binders are inherently substantially odorless. Therefore, one of ordinary skill in the art would have recognized that acrylic thermosetting binders, which are odorless, are substituted for formaldehyde binders in the formation of glass fiber insulation, since the industry is looking for alternatives formaldehyde based binders because of the increasingly stringent Federal regulations on volatile organic compound emissions, as taught by Taylor et al.

Thus, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to substitute an acrylic thermosetting binder, which is odorless since it is a known formaldehyde free insulation, as taught by Taylor et al, for the binder used in the glass fiber insulation blanket of Walter, in order to provide a glass fiber insulation blanket that is formaldehyde free, since the industry is looking for alternatives formaldehyde based binders because of the increasingly stringent Federal regulations on volatile organic compound emissions, as taught by Taylor et al.

Response to Arguments

7. Applicant's arguments filed October 29, 2007 have been fully considered but they are not persuasive.

In response to Applicant's argument that Gembala does not teach adding an odor-reducing additive consisting essentially of at least one essential plant oil, although Gembala does teach that a holding or complexing agent is present in the asphalt with the odor-masking agent it is not the odor masking agent itself. Gembala specifically states that the odor masking agent, which is equivalent to applicant's odor-reducing additive, consists of common fragrances including essential oils and then goes on to list the complexing or holding agent as a separate additive. See page 1, paragraph 7. Applicant's claim requires the asphalt coating layer to "comprise" an odor-reducing additive "consisting essentially of at least one essential plant oil." Gembala teaches adding an odor-reducing additive that "consists of" at least one essential plant oil and adds another additive but still teaches the claimed limitation because "comprising" leaves the coating open to more additives besides the claimed odor-reducing additive.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Christopher P Bruenjes
Examiner
Art Unit 1794

CPB
CPB
January 17, 2008


ALICIA CHEVALIER
PRIMARY EXAMINER